

Gary Lewis

MT Elec Co-ops' Ass'n

EXHIBIT 2

DATE 02/20/13

HB 477

## Testimony HB 477

Mr. Chairman, members of the committee, before talking about this bill, I believe it's important to reiterate who we are as electric cooperatives because it is at the heart of why we oppose this bill.

There are 25 electric distribution cooperatives in Montana. Not-for-profit utilities that are owned by our members. These co-ops are governed by boards of trustees, democratically elected by their members.

Our co-ops' consumer-owners have access to changing the co-ops' policies through their locally elected co-op trustees or through attendance at their co-op's annual meeting.

Regarding HB 477, with all due respect to our friend, Rep. Berry, this is a very bad bill. So fraught with problems, we're not sure where to begin in pointing them out.

Although prompted solely by disputes with an investor-owned utility, it includes the co-ops, imposing new regulations and tackling problems that, to our knowledge, don't exist in the co-op world. Moreover, the bill creates more problems than it seeks to solve.

Oppose because:

1). Unnecessary intrusion on local co-op control and relationships with our customer owners to address problems we're not having.

The principle of local control in action is that what works for a co-op in Ekalaka may not work for a co-op in Missoula or Kalispell or Medicine Lake. Who knows better than locally elected trustees and their members what works best in their own communities and areas?

2.) Mandates the release of customer account information to anyone who asks for it, regardless of whether a customer wants it released.

HB 477 says information doesn't have to be released if it's a "clearly unwarranted invasion of personal privacy." But what does that mean? The meaning is highly subjective.

This provision shows no specific consideration for a customer's choice regarding information release about his or her own account. What if they don't want that information released?

HB 477 also fails to specify who can have access to this information. Nothing in this bill prevents a scam artist from using the power usage information to exploit senior citizens, for example. Fly-by-night insulation companies should love this legislation because it makes it even easier for them to prey on these people, especially low-

income individuals on fixed incomes. Do you want scam artists to be able to use power usage information to manipulate your father or mother or your grandparents? If you care about these vulnerable individuals you should be vehemently opposed to this bill.

Cooperative-customer information should remain confidential, just as should information between landlords and tenants. It's a covenant between a customer-owner and his or her co-op. Should landlords be required to release information about their rental charges to anyone who asks? Probably not.

3) The liability provisions of this bill would be a nightmare for our members.

As co-owners of the co-op, they're the ones who will pay for new liability exposure contained in this bill.

These liability provisions are vague to the point of absurdity.

Look at Page 2, Lines 10-12. What's a "break in service"? It basically means the utility must guarantee the power will never go out. Our co-op utilities have a great track record on power reliability. But they can't guarantee no power outages. Would a realtor want a new law imposed that guarantees nothing will ever go wrong with a house sold by the realtor?

Under the wording of this subsection, a utility would have been liable for damages from power outages as a result of a natural disaster, such as Hurricane Sandy. Or, also under this bill, what's to stop the owner of a seasonal cabin from holding the co-op liable for damages that stem from a power outage at a cabin? It's entirely possible that an outage at the cabin could go undiscovered for months because the cabin owner hadn't visited the cabin, particularly during the winter.

What happens in the event of an emergency outage, a fire, or break in service for any number of reasons? Are the other co-op customer-owners liable for those, as well? Or, what about, as our cooperatives have experienced, when a co-op is unable to contact a landlord regarding a pending disconnect because the landlord has moved? In the case of damages occurring as a result of a disconnect, a landlord could easily claim he or she notified the co-op of an address change. In other words, game playing can occur. It will occur. HB 477 doesn't prevent any of those liability scenarios.

Also, the bill leaves wide open what could be constituted as damages. Can lost revenues of a business qualify? It's certainly possible under this legislation.

So why put new regulations on our co-ops? Regulations that interfere with our local control, something the Legislature has affirmed over and over with various laws that have been passed over the years.

Moreover, we strongly object to a new law that adds new regulation to the co-ops by amending Title 69. With few exceptions, Title 69 is for regulated utilities. Electric cooperatives are under Title 35-18. There's a reason why co-ops and regulated utilities are kept separate in the state code. It's because the governance of these utilities is totally different.

Again, we're not the problem here. What do the electric co-ops do when they do have problems, when it's perceived an abuse of our legislatively granted local control authority may have occurred? You saw it on Monday on the floor of the House of Representatives when you passed, by a vote of 99-0, SB 90, a bill addressing some problems that occurred with one co-op regarding lack of transparency and lack of accountability. In that case, legislators expressed concern and so we as co-ops helped write a bill that enacts meaningful reforms in our enabling law, reforms that will go a long ways toward preventing a recurrence of that unfortunate situation.

That's absolutely not the case when it comes to HB 477. It is not warranted. We don't have a problem.

Why should you table this bill? The responsibility of any damage for a break in service, regardless of cause, is reason enough.

But if the committee believes this bill is needed to address a public utility problem, write us out. Otherwise, please table this bill.